

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 977(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 977(b). This opinion has not been certified for publication or ordered published for purposes of rule 977.

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

TONG THAO,

Defendant and Appellant.

F037689

(Super. Ct. No. SC24385)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Merced County. Frank Dougherty, Judge.

Louis Marinus Wijsen, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, David P. Druliner, Chief Assistant Attorney General, Robert R. Anderson, Jo Graves, Senior Assistant Attorney General, and Michael J. Weinberger, Deputy Attorney General, for Plaintiff and Respondent.

* Before Vartabedian, Acting P.J., Wiseman, J., and Reed, J.[†]

[†] Judge of the Tulare Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

-ooOoo-

Appellant Tong Thao pled nolo contendere to four counts of lewd and lascivious acts by force or violence on a child under age 14 (counts one through four) and oral copulation with a victim under age 14 (counts five through seven). The court sentenced Thao to the midterm of six years on counts one through six and made each sentence consecutive for a total prison term of 36 years.¹ Thao was ordered to pay a restitution fine and granted applicable custody credits.

Thao's appointed appellate counsel has filed an opening brief which summarizes the pertinent facts, raises no issues, and requests this court independently to review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) The opening brief also includes the declaration of appellate counsel indicating that he advised Thao that he could file his own brief with this court. By letter of June 8, 2001, we invited Thao to submit additional briefing. To date, Thao has not done so.

After independent review of the record, we have concluded no reasonably arguable legal or factual argument exists.

The judgment is affirmed.

¹ The court stayed sentence on count seven.